

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ELVIS BENSON,

Plaintiffs,

v.

ERIC ECKHORN, GREGORIO ANDERSON,
UNKNOWN OFFICERS, and the CITY OF
CHICAGO,

Defendants.

No. 08 C 2346

Judge Manning

Magistrate Judge Valdez

INITIAL STATUS REPORT

NOW COME the Plaintiff, by and through his Amanda Yarusso of Horwitz, Richardson & Baker, LLC, and the Defendants, by and through its attorney, Marc J. Boxerman of City of Chicago Corporation Counsel, Federal Civil Rights Litigation Division, and propose to this Court the following joint status report:

1. NATURE OF THE CASE

A. Plaintiffs are represented by Horwitz, Richardson & Baker, LLC., with Blake Horwitz as the lead trial attorney and Amanda Yarusso as the lead attorney for litigation of the matter until trial. Defendants Eric Eckhorn, Gregorio Anderson, and the City of Chicago are represented by City of Chicago Corporation Counsel, with Marc J. Boxerman as the lead trial attorney.

B. The jurisdiction of the court is invoked pursuant to the Civil Rights Act, 42 U.S.C. § 1983; the Judicial Code, 28 U.S.C. §1331 and §1343(a); the Constitution of the United States; and this Court's supplementary jurisdiction powers.

C. Nature of the claims asserted in the complaint and any counterclaims: The Plaintiffs allege claims of § 1983 false arrest, false arrest (state law claim), malicious prosecution (state law claim), § 1983 conspiracy claim, conspiracy (state law claim), § 1983 equal protection claim (class of one), a Monell claim against the City of Chicago, a 745 ILCS 10/9-102 claim against the City of Chicago, and a supplementary *respondeat superior* claim.

D. Principal legal issues: the probable cause standard for a false arrest claim, the elements of a violation of the equal protection claim, lack of probable cause for malicious prosecution, and conspiracy. Principal factual issues: whether the Defendants had a probable cause basis to arrest and whether Defendants commenced criminal proceedings without probable cause, as well as facts showing a pattern or practice of false arrests and malicious prosecution within the City of Chicago.

E. Plaintiff seeks compensatory money damages for criminal defense fees and suffering, punitive damages, attorneys' fees and costs.

2. PENDING MOTIONS AND CASE PLAN

A. The Defendants have a motion to dismiss Count VI (Equal Protection Class of One), or in the alternative for a more definite statement on which a briefing schedule has been set. Plaintiff plans to move to amend the complaint to name different Defendant Officers and Defendants will not object.

B. Discovery Plan:

1. The parties expect the use of normal discovery devices, including requests for production of documents, interrogatories, requests for admission and depositions. At this juncture, the parties anticipate depositions will be needed as to the parties, treating

physicians, witnesses, and 30(b)(6) witnesses. The parties propose the following discovery schedule:

2. Rule 26(a)(1) disclosures due by September 22, 2008.
3. Fact discovery to be completed by January 15, 2009.
4. Expert discovery to be completed by April 16, 2009, reports to be disclosed 30 days prior.
5. All dispositive motions to be filed by June 1, 2009.
6. Final Pre-Trial order to be filed by 30 days following the Court's ruling on any dispositive motions. If there are no dispositive motions filed, Final Pre-Trial order to be filed 30 days following close of expert discovery.

C. Trial

1. A jury trial has been demanded.
2. The parties anticipate the trial will take 4 days.
3. The parties believe the case will be ready for trial by two weeks after the final pre-trial order is entered (approximately September 30, 2009).

3. **Consent to Proceed before Magistrate Judge**

The parties do not consent to proceed before a Magistrate Judge at this time.

4. **Status of Settlement Negotiations**

A. Plaintiff has made a demand to Defendants in an effort to settle the case. Defendants will respond after the Complaint has been amended to name the proper parties.

B. Not applicable.

C. The parties do not request a settlement conference at this time although the parties may request one in the future.

s/ Amanda S. Yarusso
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